

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

VICTOR EUGENE FOWLER,

Defendant-Appellant.

UNPUBLISHED

July 10, 2001

No. 222607

Lenawee Circuit Court

LC No. 99-008380-FC

Before: Saad, P.J., and Holbrook, Jr., and Murphy, JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial conviction of criminal sexual conduct in the second degree (CSC II), MCL 750.520c(1)(a); MSA 28.788(3)(1)(a). Defendant was sentenced as an habitual offender, third offense, MCL 769.11, to fifteen to thirty years in prison. We affirm.

Defendant was charged with one count of criminal sexual conduct in the first degree (CSC I), MCL 750.520b(1)(a), and one count of CSC II. The victim, his daughter, was under the age of thirteen at the time the charged conduct occurred. Complainant testified that from time to time she slept in the same bed with her parents. Complainant testified that on several of these occasions defendant touched her breasts and vaginal area both over and under her clothing. In addition, complainant alleged that defendant made her touch his penis with her hand. Complainant admitted that she never told defendant to stop his actions, and that she denied her allegations in an interview with a social worker. She contended that she misinformed the social worker because she feared that her father would be taken from the family. Defendant's neighbors testified that complainant made them aware that defendant had touched her in a sexual manner. A police investigator testified that defendant told him that he did not recall engaging in the conduct of which he was accused, but that he might have done so in his sleep. The trial court granted defendant's motion for a directed verdict on the charge of CSC I. The jury found defendant guilty of CSC II.

Defendant argues that insufficient evidence was adduced at trial to support his conviction of CSC II. We disagree. In reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). We do

not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *Id.* at 514. A person is guilty of CSC II if he engages in sexual contact with another person under certain defined circumstances, including if the other person is under thirteen years of age. MCL 750.520c(1)(a). Sexual contact constitutes the intentional touching of the victim's or actor's intimate parts if the touching can "reasonably be construed as being for the purpose of sexual arousal or gratification." MCL 750.520a(k).

Complainant was under the age of thirteen when the charged conduct occurred. She testified that defendant touched her breasts and vaginal area both over and under her clothing, and that he made her touch his penis with his hand. Complainant admitted that she denied her allegations when she spoke with a social worker, but explained her reasons for doing so. No corroboration of complainant's testimony was required, MCL 750.520h, and the jury was entitled to believe her testimony. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). Furthermore, given the circumstances under which the charged conduct occurred, the jury could reasonably conclude that defendant engaged in sexual contact with complainant for the purpose of sexual arousal or gratification. MCL 750.520a(k); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990). Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's conviction. *Wolfe, supra*.

Affirmed.

/s/ Henry William Saad
/s/ Donald E. Holbrook, Jr.
/s/ William B. Murphy